

Application No.: 10/717,677
Response dated: July 31, 2006
Reply to Office Action dated: July 3, 2006

REMARKS

In an Office Action mailed July 3, 2006, the Examiner in charge of the above-noted application imposed a requirement for restriction dividing the claims into two groups, which in the Examiner's opinion are not related. The Examiner also requests an election of species.

Applicants amend Claims 14 - 24 to recite the term "culture" in the preamble. This amendment corrects an inadvertent clerical error, making the preamble of Claims 14-24 consistent with independent Claim 13. No new matter is added by this amendment.

Based on this clarification, applicants provisionally elect the invention of Group II, Claims 13-24 drawn to an embryonic stem (ES) cell culture grown on a flexible solid porous matrix. The elected species is mammalian embryonic stem cells. Claims 13-24 read on the elected species. These elections are made with traverse and without prejudice to the eventual filing of a divisional application and rejoinder of the non-elected method claims (Group I) back into the application, once the culture claims of Group II are found allowable.

Applicants submit that the restriction is traversed on the grounds that the subject matter of Groups I and II are inextricably linked. In particular, the claims of Group I and Group II are related as a process of making ES cells having reduced differentiation and the ES cell culture made using that process. Applicants believe that a proper search for one group of claims would inevitably overlap with that for the others and the search results for one is relevant to the others. Applicants do not believe that a burden exists for searching more than one of the patentably related groups.

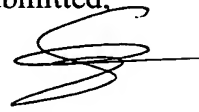
Applicants also wish to note that procedurally restriction requirements are optional in all cases (see MPEP § 803). If the search and examination of a claim set can be made without serious burden, the Examiner must examine the claims on the merits, even though they may be arguably directed at distinct or independent inventions (MPEP § 803). In the present application, and as described hereinabove, it is respectfully submitted that claims in Groups I-II can be examined together without serious burden on the Office. Accordingly, it will be unnecessarily burdensome on both the applicants and the Office to consider this highly related subject matter in several separate patent applications.

For these reasons, applicants respectfully request that the restriction requirement on Groups I-II be reconsidered and withdrawn. Wherefore examination on the merits is respectfully requested.

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No fees are believed due; however, if any fees are due, in this or any subsequent response, please charge Deposit Account 17-0055.

Respectfully submitted,



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